

**MINUTES
COLUMBUS BOARD OF ZONING APPEALS
SEPTEMBER 28, 2010
COUNCIL CHAMBERS, 2nd FLOOR, CITY HALL
123 WASHINGTON STREET
COLUMBUS, INDIANA**

Members Present: Mary Ferdon, Chairperson; Dave Bonnell, Secretary;
Lou Marr and Jeff Sharp

Staff Present: Laura Thayer, Assistant Planning Director; Alan Whitted,
Deputy City Attorney; Heather Pope, Senior Planner; Derek
Naber, Associate Planner; Rae-Leigh Stark, Associate Planner;
Stephanie Carr and Bill Klakamp, Code Enforcement

PUBLIC MEETING

Mary Ferdon, Chairperson, opened the meeting with a brief explanation about the Board and its responsibilities.

Proof of advertising for all cases was confirmed. The petitions and staff comments are a permanent record at the Planning Department.

Alan Whitted, Deputy City Attorney, administered the oath to all in attendance that would be speaking.

Ms. Ferdon read a letter into the record from Human Services who had requested that be withdrawn without prejudice.

Dave Bonnell made a motion to accept the request. It was seconded by Lou Marr.

The motion passed 4-0.

Ms. Ferdon said that Mainsource Bank had requested a continuance for C/CU-10-15 and C/DS-10-20 for 60 days.

Lou Marr made a motion to accept the request for continuance. It was seconded by Jeff Sharp.

The motion passed 4-0.

OLD BUSINESS REQUIRING BOARD ACTION

Public Hearing

C/DS-10-12: Columbus Regional Hospital

Columbus Regional Hospital is requesting a development standards variance for relief from the requirement to install a Buffer Yard Type A between an I1 (Light Industrial) and a R4 (Single-family Residential) zoning district, per Zoning Ordinance Section 8.2 (Table 8.3) and Zoning Ordinance Section 8.2(C); except for the requirement to install landscaping per Zoning Ordinance Section 8.2(C) (1) (b). The property is located at 1715 Keller Avenue in the City of Columbus.

Tim Allen stated his name and address into the record.

Ms. Pope began with a power point presentation and read the background for the record.

She said at the August 24, 2010 meeting, the Board approved the following variance requests:

1. A development standards variance from Zoning Ordinance Section 7.2(Part 4)(B)(2) to allow the parking lot setback on the west side of the property to be 0.5 feet, 4.5 feet less than required;
2. A development standard variances from Zoning Ordinance Section 3.22(C) to allow a side setback for a structure to be 0.5 feet, 9.5 feet less than the required minimum setback of 10 feet;
3. A development standards variance from Zoning Ordinance Section 7.3(Part 1)(C)(3)(c) to allow an entrance from a public street to be 35 feet from an existing entrance, 65 feet less than required for a local street is for the purpose of constructing a parking lot and adding a canopy over the existing loading dock at this site.

Ms. Pope said that at the same meeting, a variance was requested to allow a Type A Buffer Yard to have a width of 1 foot, 24 feet less than required.

She said the continuance was to allow the petitioners time to work with Planning Staff on an alternative buffer yard that would satisfy the neighbors' concerns regarding limited access to their property, trash collecting along the proposed fence, and the fence blocking visibility from their back yards.

Ms. Pope said that the petitioners had met with the neighbors and had worked out a plan they all could agree on.

Tim Allen, Independent Land Surveying, and Jim Fields stated their names and addresses into the record.

Mr. Allen said the petitioner's original proposal was to install an 8 foot high opaque wood fence with the required landscaping.

Mr. Allen said the neighboring property owners were against the installation of an opaque fence, stating concerns about limiting access to their property, trash collecting along the fence and decreased visibility from their back yards.

He said the petitioners are proposing Type A Buffer yard plantings, without the opaque fence requirement.

The meeting was open to the public.

Bob Peabody, 1739 Caldwell, spoke on behalf of himself and the neighbors.

He said that they had wanted it to be put into the record that they did not want a fence. He said that another concern was lighting.

Ms. Pope said that if this variance was approved then the petitioners would have to apply for a Zoning Compliance Certificate, at which point lighting would be addressed.

The meeting was closed to the public.

Dave Bonnell made a motion to approve **C/DS-10-12**, based on the findings of fact as addressed by staff.

Lou Marr seconded the motion, and it passed 4-0.

NEW BUSINESS REQUIRING BOARD ACTION

C/DS-10-14: United Way of Bartholomew County

United Way of Bartholomew County is requesting a variance for relief from Zoning Ordinance Section 3.14 (C) to allow 63 dwelling units, exceeding the maximum gross density by 19 units; a variance from Zoning Ordinance Section 3.14 (C) to allow 63 dwelling units on a property of 1.77 acres (77,100 square feet), 17,400 square feet less in area than required for 63 dwellings units, and a variance from Zoning Ordinance Section 7.1 (Table 7.2) to allow a total of 79 parking spaces, 47 fewer parking spaces than required. The property is located on the east side of Michigan Avenue between 13th Street and 14th Street in the City of Columbus.

Petitioners Pete Schwiegeraht and Doug Otto stated their names and addresses for the record.

Ms. Thayer began the meeting with a power point presentation and read the background into the record.

She said the applicant has requested three variances for the purpose of constructing an over -55, 63 units, multi-family residential development. The variances requested will allow increased density, a reduction in the minimum lot size, and a reduction in the minimum number of parking spaces.

Mr. Schwiegeraht said that the property is ideally situated for senior multi-family development. He said the proximity to United Way would link residences with services.

Mr. Schwiegeraht said there are 3,000 seniors living in the area with a limited number of affordable senior units available.

He said the proposed development will be valued near \$10,000,000 to \$12,000,000. It will be built with the highest in architectural standards and will be green in design.

The meeting was open to the public.

Donna Mount, 7033 S. Sprague Road, asked if the rent would be related to income.

The meeting was closed to the public.

Mr. Schwiegeraht said that the rent would be based on the individual's income.

Jeff Sharp made a motion to approve **C/DS-10-14**, variances 1, 2 and 3, accepting findings of fact, and subject to staff's recommended conditions of approval, that the property be rezoned from PUD, Planned Unit Development, to RM, Multi Family Residential, and that parking spaces be built on 13th and 14th Streets and Michigan Avenue, as shown on the concept plan.

The motion was seconded by Lou Marr, and passed 4-0.

C/DS-10-17: Zwanzigz

Zwanzigz is a development standards variance from Zoning Ordinance Section 3.17 (C) To reduce the front setback on 11th Street from 5 feet to 1 foot, 4 inches; a development standards variance from Zoning Ordinance Section 7.1(Table 7.2) to allow a total of 24 parking spaces, 13 fewer parking spaces than required; a development standards variance from Zoning Ordinance Section 7.2(Part 1)(Table 7.1) to allow parking spaces to be 16 feet long, 2 feet shorter than required; and a development standards variance from Zoning Ordinance Section 7.2(Part 4)(B)(4) to allow the aisle width for 60 degree parking to be 16.5 feet, 1.5 feet narrower than required. The property is located at 1038 Lafayette Avenue in the City of Columbus.

Jeff Marshall of Design & Planning, Attorney Jeff Rocker and Petitioners Kurt and Lisa Zwanzig stated their names and address for the record.

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Ms. Pope began with addressing the background and there was a point presentation of the property.

Ms. Pope said that the applicants are requesting four development standards variances, in order to expand their existing building by an additional 1,800 square feet which will enlarge the kitchen/prep area and add seating.

She said all the variances are related to the proposed building expansion and the reconfiguration of parking on site.

Mr. Marshall began by giving a point presentation of the business.

He said expansion of the seating will accommodate the large numbers of patrons currently visiting the site and waiting for seating on Friday and Saturday evenings and sometimes lunch traffic.

The meeting was open to the public.

Sheryl Nulph, 1027 Franklin, Tracy Morgan, 1033 Lafayette, and Mary Brown, 1030 Lafayette, were opposed to the request.

Ms. Hernandez, 528 10th Street, Micki Fulp, 2707 Lafayette, and Donna Mount, 7033 S Sprague Rd were in favor of the petition.

Ms. Ferdon the following letters into the record that opposed the petition:

R.L and P.K. Wilkerson, 1033 Franklin Street
Sheryl Nulph, 1027 Franklin Street
Mike and Gail Littrell, 524 10th Street
A.J. Henry and S.E. Henry, 525 11th street
Steve and Angela Henry, 505 11th Street
Tammy Apple, 538 10th Street

The following were in favor of the variance request:

Jim and Ester Turner, 1119 Franklin
Mike Sullivan
Tom Clerkin, 3200 Hawthorne Drive
Robert Morrison, 2930 Taylor Road
Abby Howe, 7950 W. West Pointe Drive
Richard Herman
Cristina Fernandez, 528 10th Street
Camzy Helms, 6844 E. 550 N.

The meeting was closed to the public.

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Ms. Ferdon suggested to the petitioners after hearing the comments made by the neighbors that it would be in their best interest to talk to the neighbors.

Petitioner Kurt Zwanzig said that it is difficult to talk to some of the neighbors because it is already heated.

Ms. Marr said she loves the historical district but sometimes the business outgrows the neighborhood and she suggested that Jeff Marshall go back and design something that would fit.

She suggested they go back and meet with the neighbors and with the staff and maybe the expansion would not need to be so big.

Ms. Marr said that they do a wonderful business but most of the letters in favor of the variance were not from the neighborhood.

Mr. Zwanzig said that Mr. Marshall had done a lot of work getting the best possible design. He said had we gone a different direction with a plan that didn't require any variances, we probably would be done constructing already.

He said they wouldn't have more parking, and we wouldn't have the ability to seat more people, so we would have actually made the situation worse.

Mr. Zwanzig said we asked for this plan, which required some variances, to make the situation the best it could possibly be and that is what we felt we needed to do.

He said he thought there was some confusion now that if we say no to the variances, and they are denied that means we would not be able to expand.

Mr. Zwanzig said if they drew something that didn't require variances, we could easily expand without even having a public hearing, but the situation wouldn't improve.

Ms. Ferdon explained to the petitioners the job that the board was there to do.

Ms. Zwanzig made a statement that she would welcome the neighbors to come and talk to them and that they would be willing to discuss with them putting "no parking" signs up on their property or on neighboring properties. She said they would be willing to put on their menus a little note about being courteous to our neighbors and they would be open to talk about anything.

She said she was concerned that it has gotten bad and she said she was afraid to approach the neighbors.

Ms. Zwanzig said she was opening and welcoming all neighbors to call them or come over and they would be happy to do whatever they needed to do accommodate the neighborhood.

Mr. Zwanzig asked the board for a 30-day continuance. He said he would talk with any neighbor that is concerned and they will make the effort to communicate with them and said he hoped that would give everybody a chance to talk face to face; he said they wanted that all along.

Lou Marr made a motion to continue **C/DS-10-17** for 30 days.

Jeff Sharp seconded the motion, and it passed 4-0.

C/DS-10-18: Mike Mount

Mike Mount is requesting a development standards variance from Zoning Ordinance Section 6.1(E) (3) to allow an accessory building in a front yard. The property is located at 4850 Progress Drive in the City of Columbus (Forwarded by the Board of Zoning Appeals Hearing Officer).

Mike and Donna Mount and Ted Darnell stated their names and addresses into the record.

Ms. Stark began by reading the background into the record. There was a power point presentation made.

She said that the application had been forwarded from the Board of Zoning Appeals Hearing Officer due to neighbor remonstrance. She said the main concern of the adjacent neighbors is noise and light pollution.

Ms. Stark said during the staff review of this property, it has been determined that significant, unapproved changes have been made to the property in recent years that may have an adverse impact on the neighbors.

She said that the City Engineering Department said the proposed accessory structure will not impact access or drainage on the site and there were no comments from City Utilities.

Ms. Stark said the subject property is adjacent to a neighborhood and there is a landscape buffer that runs along the rear side of the subject property that keeps the noise pollution down and limits the view of the industrial park, but not enough.

She said many of the required trees in the buffer area are in poor health and the property owner has encroached significantly into the required buffer area with parking spaces.

If a buffer is not provided on the property the noise, light and other activities will negatively affect neighboring properties.

Ms. Mount said that they own a Christmas tree farm, and because of the weather this year that they can't replace the dead trees until it rains, and they will be replaced.

Mr. Darnell said the neighbors to the north did not want an opaque fence.

The Mounts were trying to be good neighbors.

The additional paving was done and the proper permits were not issued.

The meeting was open to the public.

Ms. Ferdon read a letter into the record

The letter was against the variance request and signed by the following people:

Dave Graham, 1582 W Southline Drive
Kathy Gilliam, 1702 W Southline Drive
Steve Dailey, 4922 Willa Way
Kevin Grider, 4951 Willa Way
Julie Harris, 4972 Willa Way
Duane Botkin, 4982 Willa Way
James Bell, 4946 N. Adkins Street
Martin Davis, 4974 Vance Street
Lew Powers, 4963 Vance Street
Martin Davis, 4974 Adkins Street
Kathy Floyd, 4953 Vance Street
Jim Renner, 1651 W Southline
Merri Sims, 1672 W Southline Drive

The meeting was closed to the public.

Mr. Mount stated that the only thing they want to do is build a temporary storage trailer and put a permanent structure there because they are required by our customers to keep some of these future vehicles under wrap so they can't just let them sit outside. Instead of covering them up with tarps they are willing to invest in a building.

Mr. Mount said they thought it would help the community not hurt it.

Dave Bonnell made a motion to approve **C/DS-10-18** with the stipulation that the landscaping be restored. He accepted the staff's findings of fact for criterion 1 and 3. He said criterion 2 was met, as the owner had agreed to install the landscaping as required.

Lou Marr seconded the motion, and it passed 4-0.

C/CU-10-14: Gladstone Apartments

Gladstone Apartments is a request for a conditional use approval per Zoning Ordinance Section 3.19(B) for a 49-unit multi-family development in the CC (Community

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Commercial) zoning district. The property is located on the east side of Gladstone Avenue approximately 275 feet north of State Road 46 in the City of Columbus.

Steven Kersey stated his name and address into the record.

Ms. Stark began with a power point presentation and gave the background into the record.

She said the applicant has indicated that the proposed conditional use will allow a 49-unit multi-family development in the Community Commercial zoning district per Zoning Ordinance Section 3.19(B). The applicant is also requesting a development standards variance for relief of installing a Type A Buffer along the east property line.

Ms. Stark said a Type A Buffer is required in the Community Commercial zoning district when adjacent to the Residential Established zoning district.

She said the applicants are proposing a 5 foot landscape area instead of the required 25 feet and are proposing the Type B Buffer planting instead of the required Type A Buffer plantings.

Mr. Kersey began by stating that based on some of the criteria, they have reduced the scope from 49 units to 43 units. He said that their plans are to have 28 two-bedroom units that will be 2 story walk-ups, and 15, 3 bedroom units that will be 1 story.

He said the whole theme will be family oriented.

Mr. Kersey said that it goes without saying that they will be in total compliance with all issues. He said they will add curb cuts, sidewalks and save all the trees.

He said this evening they were there to get approval for the conditional use for multi-family, and for going from the Type A Buffer to Type B, and from the 25 to 5 foot width.

The meeting was open to the public.

Paul Rutan asked if this is going to be low-income housing. He said that he has a couple of properties in that area and he believed that it will add to the vandalism in that area. He said he didn't understand why you would want a residential property in the middle of a commercial zoning district.

Mark Pratt, developer representing Mr. and Mrs. Lake, the owners of the property, said he was in favor of the request and thought it would be an excellent place for a residential use.

The meeting was closed to the public.

Mr. Kersey addressed the comments made at the public hearing. He said that their firm will be developing a “Class A” multi-family project. He said their plan also will have a playground on site.

He said the trash areas will all be screened and the management will not tolerate cars being worked on.

Jeff Sharp made an approval to approve **C/CU-10-14**, accepting the staff’s findings of fact, and subject to the following conditions:

1. Prior to the issuance of a zoning compliance certificate or any other development approvals the applicant shall dedicate a total of 45 feet of right-of-way, measured from the centerline of Gladstone Avenue, along the entire frontage of the subject property.
2. The access point for the property shall be located opposite the access for the Bartholomew County Highway Garage on the west side of Gladstone Avenue, with the centerline of the new drive being 400 feet from the centerline of State Street.
3. The applicant shall plat an easement on the subject property allowing access to the property to the south. This easement shall be a minimum of 50 feet in width and shall be allowed for shared use (by this property and that property to the south) of the proposed apartment driveway from Gladstone Avenue.
4. The applicants shall provide (and indicate on their site plan) at least one location where a walk or path is extended to the east property line – allowing access to Fodrea School.
5. The existing trees along the east property line shall be retained on site (with no constriction activity to occur in their driplines).
6. The applicants shall improve their frontage of Gladstone Avenue to include a curb, a tree lawn between the curb and sidewalk, and a 5 foot sidewalk to be located at least 5 feet from the curb.
7. The site shall be designed so that the westernmost building(s) are oriented toward Gladstone Avenue, with parking taking place behind that building or buildings. The access area and easement provided to the property to the south shall be exempt from this requirement. The façade(s) facing Gladstone Avenue will have to be designed as “fronts” of buildings with appropriate entry door(s), windows, etc.
8. The site shall be designed to include street trees that meet the specifications provided by the Planning Department and the City Engineer. The trees shall be located either (1) between the sidewalk and curb or (2) between the curb and right-of-way line, whichever provides a larger area.
9. The site shall be limited to 1 free-standing sign meeting the following maximum dimensions: 6 feet in height and 50 square feet in area.
10. The site shall comply with all applicable requirements of the CC zoning district and a complete site plan shall be provided prior to the issuance of a zoning compliance certificate.

The motion was seconded by Dave Bonnell and passed 4-0.

Jeff Sharp made an approval to approve **C/DS-10-21**, accepting the staff's findings of fact, and subject to the following conditions:

1. A Type B Buffer must be installed along the east property line.
2. The width of the landscape buffer can be a minimum of 5 feet in width, in addition to the required 10 foot setback.

The motion was seconded by Dave Bonnell, and passed 4-0.

The following findings of fact were presented to the Board for Consideration:

C/CU-10-11: Westside Community Church

Dave Bonnell made a motion to accept the findings of fact. The motion was seconded by Lou Marr, and passed by a vote of 3-0.

C/DS-10-21: Gladstone Apartments

Dave Bonnell made a motion to accept the findings of fact. The motion was seconded by Lou Marr, and passed by a vote of 3-0.

C/DS-10-10: Coach'z Cutz

Dave Bonnell made a motion to accept the findings of fact. The motion was seconded by Lou Marr, and passed by a vote of 3-0.

C/DS-10-12: Columbus Regional Hospital

Dave Bonnell made a motion to accept the findings of fact. The motion was seconded by Lou Marr, and passed by a vote of 3-0.

C/DS-10-13: Kenneth St. Clair

Dave Bonnell made a motion to accept the findings of fact. The motion was seconded by Lou Marr, and passed by a vote of 3-0.

C/DS-10-11: Northern Village

Dave Bonnell made a motion to accept the findings of fact. The motion was seconded by Lou Marr, and passed by a vote of 3-0.

APPROVAL OF MINUTES

Lou Marr made a motion to approve the minutes of the August 24, 2010 meeting, which was seconded by Dave Bonnell. The motion was approved by a vote of 3-0.

DISCUSSION

There being no other business the meeting was adjourned.

Mary Ferdon, Chair

Dave Bonnell, Secretary